

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

(ECF)

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NTT DOCOMO, INC.,	:	10 Civ. 3823 (RMB) (JCF)
	:	
Petitioner,	:	REPORT AND
	:	<u>RECOMMENDATION</u>
- against -	:	
	:	
ULTRA D.O.O.,	:	
	:	
Respondent.	:	
- - - - -	:	
TO THE HONORABLE RICHARD M. BERMAN, U.S.D.J.:		

This is a proceeding to confirm an arbitration award. In a Decision & Order dated October 12, 2010, the Honorable Richard M. Berman, U.S.D.J., granted the motion of the petitioner, NTT DoCoMo, Inc. ("DoCoMo"), confirmed the award, and referred the case to me for purposes of determining the amount of costs and attorneys' fees to which DoCoMo is entitled under the agreement that governed the rights of the parties.¹ On January 20, 2011, DoCoMo submitted a declaration seeking fees in the amount of \$123,585.32 and costs of \$18,503.37. Because the respondent, Ultra D.o.o. ("Ultra") does not oppose DoCoMo's application, I recommend that it be granted in full.

¹ Although the referral states that it is for a "non-dispositive motion," attorneys' fees applications are treated as dispositive pretrial matters which may be referred to a magistrate judge for a report and recommendation. Fed. R. Civ. P. 54(d) (2) (D).

Background

NTT DoCoMo has been represented throughout these proceedings by the firm of Squire, Sanders & Dempsey (US) LLP ("Squire Sanders"). In support of DoCoMo's application for fees and costs, Squire Sanders has submitted its invoices together with the underlying records showing the work performed and time billed in connection with the proceedings in this Court. (Declaration of Nathan Lane III dated Jan. 20, 2011 ("Lane Decl."), Exh. A). Because DoCoMo is a Japanese company and because the invoices were rendered by Squire Sanders' Tokyo office, the invoices were denominated in Japanese yen. The fees and disbursements charged to DoCoMo by Squire Sanders are as follows:

Invoice Date	Hours Billed	Fees Billed in Yen	Disbursements in Yen
4/2/10	8.20	524,431.00	164,728.00
5/5/10	54.70	3,146,084.50	78,791.00
6/1/10	45.10	2,430,741.00	819,209.00
6/30/10	10.70	576,268.00	356,201.00
7/31/10	51.90	3,349,670.50	110,361.00
9/2/10	.50	10,240.00	989.00
11/3/10	12.30	719,860.50	1,800.00
TOTALS:		¥10,232.864.50	¥1,532.079.00

(Lane Decl., ¶ 5). The exchange rate as of January 14, 2011 was 82.8 Yen to 1.00 U.S. Dollar. (Lane Decl., ¶ 6). At that rate,

the total fees requested are \$123,585.32, and the expenses are \$18,503.37. (Lane Decl., ¶ 7).

The attorneys' fees calculations are based on the following billing rates for lawyers and paralegals:

Attorney/Paralegal	Rates in Yen	Rates in Dollars
Alborzfar, Michelle	¥26,995/hour	\$326/hour
Chelberg, Stephen	¥65,000/hour	\$785/hour
Green, Rudy	¥8,845/hour	\$107/hour
Lane, Nathan III	¥63,955/hour (3/10) ¥67,485/hour (after March 2010)	\$772/hour (3/10) \$815/hour (after March 2010)
Meckes, Joseph	¥51,195/hour	\$618/hour
Parilla, Joseph	¥20,480/hour	\$247/hour
Skulnick, Steven	¥56,780/hour	\$686/hour

(Lane Decl., ¶ 6). Squire Sanders has submitted the curriculum vitae for each of the attorneys for whom compensation is sought.

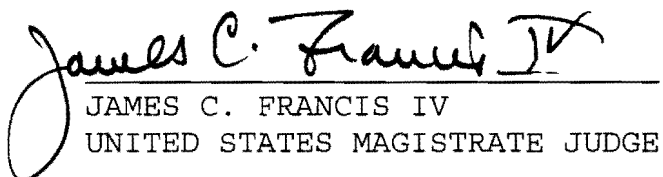
(Lane Decl., Exh. B).

As noted above, Ultra does not oppose DoCoMo's fee application. (Letter of Ronald I. Israel dated Feb. 4, 2011). The records submitted by Squire Sanders are detailed, and the hours billed appear to be commensurate with the work performed and the needs of the case. Furthermore, the rates charged are consistent with rates charged for similar work in this district. Accordingly, DoCoMo should be awarded fees and expenses in the amounts requested.

Conclusion

For the reasons discussed above, I recommend that DoCoMo be awarded attorneys' fees of \$123,585.32 and costs of \$18,503.37, for a total of \$142,088.69. Pursuant to 28 U.S.C. § 636(b)(1) and Rules 72, 6(a), and 6(d) of the Federal Rules of Civil Procedure, the parties shall have fourteen (14) days from this date to file written objections to this Report and Recommendation. Such objections shall be filed with the Clerk of the Court, with extra copies delivered to the chambers of the Honorable Richard M. Berman, Room 650, and to the chambers of the undersigned, Room 1960, 500 Pearl Street, New York, New York 10007. Failure to file timely objections will preclude appellate review.

Respectfully submitted,


JAMES C. FRANCIS IV
UNITED STATES MAGISTRATE JUDGE

Dated: New York, New York
February 7, 2011

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